

REMARKS

Entry of this Preliminary Amendment prior to the examination of the above-identified RCE on the merits is respectfully requested.

The Final Office Action of May 6, 2003 has been reviewed and carefully considered. The Examiner's reconsideration is respectfully requested in view of the above amendments and the following remarks.

Claims 17-18, 20, 22-27, 29-30, 32-33, 35-37, 39-40, 43-46, 48-49, 51-52, 54-56, 58-59, and 61-79 are pending in the present application. Claims 19, 21, 28, 31, 34, 38, 41, 42, 47, 50, 53, 57 and 60 were cancelled without prejudice. No new matter has been introduced by virtue of the amendments.

Claims 17-18, 20-40 and 42-57 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,648,190 to Kato et al. (hereinafter Kato). Further, claims 58-79 were rejected under 35 U.S.C. §103(a) as being unpatentable over both Kato and U.S. Patent No. 5,824,464 to Schell et al. (hereinafter Schell).

The Applicant believes the present amendments to the claims obviates these rejections for at least the reasons below; in addition, the Applicant would like to further clarify pertinent facts related to the present invention to more clearly describe its attributes and distinctions over the prior art.

The method and apparatus of Kato is directed to forming a color image. Schell involves a backing layer for photographic support materials. As such, it is clear from the outset that Kato and Schell involve entirely different technical fields (i.e., photographic developing/equipment) than that of the present invention (i.e., photochromic dyeing of an optical plastic lens/article). This results in a host of differences between Kato/Schell and

the present invention on a fundamental level.

Kato discloses a first peelable transfer layer 12 on the surface of an electrophotographic light sensitive element 11 having at least a support 1 and a light sensitive layer 2, forming at least one color toner image 3 on the first peelable transfer layer by a conventional electrophotographic process, forming further a second transfer layer 13 on the toner image, and then transferring the toner image 3 together with the transfer layer 12 and the transfer layer 13 onto another substrate 16, thereby forming a color duplicate. *See* Col. 3, lines 1-11. The support of Kato is disclosed as comprising a substrate (e.g., a metal plate, paper or plastic sheet) having been rendered conductive. *See* Col. 35, lines 55-67.

Kato, in its focus on color image processing, inherently uses materials in a wholly different manner than the present invention. Kato uses the organic solvent to synthesize a dispersion polymer rather than to dissolve a dye and plasticizer as in the present invention. In addition, Kato adsorbs a release agent onto a light sensitive (dye) layer containing a plasticizer rather than infusing a dye and plasticizer solution into a plastic article, as in the present invention. Further, Kato maintains the organic solvent separate from the plastic sheet rather than contacting the plastic article with a dye-solvent solution as in the present invention.

Schell discloses a photographic element comprising a support, at least one light-sensitive layer and a protective overcoat or backing layer. *See* Col. 4, lines 1-9. However, Schell also inherently utilizes materials differently than the present invention in that: Schell combines dyes and plasticizers into a superposed image-forming emulsion layer rather than dissolving a dye and plasticizer into a solvent; Schell provides a

superposed coating of plasticizer in solvent rather than infusing a dye into a surface; and Schell maintains the dye separate from the solvent rather than contacting a plastic article with a dye-solvent solution.

Both Kato and Schell, either individually or in any combination, fail to disclose or suggest at least an **photochromic optical** plastic lens which is **photochromically** dyed, essentially as claimed in claims 17 and 39, nor an **optical** plastic article essentially as claimed in claim 58. "Optical" imparts in the present invention the following meaning: "of the sense of sight, visual; for aiding vision." In the present application, the term "optical lens" includes a plano lens or sunshade lens. In contrast, neither Kato nor Schell make any mention of any matter involving optics; indeed, their focus on color imaging processing/photographic equipment, respectively, has no nexus whatsoever with optical lenses.

Photochromic, as the term is known in the art, refers to a specific chemical reaction the lenses have to ultraviolet (UV) radiation. **Photochromic** lenses have millions of molecules of substances such as silver chloride or silver halide embedded in them. The molecules are transparent to visible light in the absence of UV light, which is normal for artificial lighting. But when exposed to UV rays, as in direct sunlight, the molecules undergo a chemical process that causes them to change shape. The new molecular structure absorbs portions of the visible light, causing the lenses to darken. The number of molecules that change shape varies with the intensity of the UV rays.

Neither Kato nor Schell disclose or suggest or even make any mention of photochromic dyes and/or photochromic lenses.

Accordingly, claims 17, 39 and 58 are believed to be patentable and nonobvious over Kato and Schell for at least the reasons stated above. Claims 18, 20, 22-27, 29-30, 32-33 and 35-37 depend either directly or indirectly on claim 17. Claims 40, 43-46, 48-49, 51-52 and 54-56 depend either directly or indirectly on claim 39. Claims 59 and 61-79 depend either directly or indirectly on claim 58. As such, the dependent claims are believed to be patentable and nonobvious for at least the reasons given above for claims 17, 39 and 58.

Accordingly, the Applicant respectfully requests withdrawal of all the rejections under 35 U.S.C. §103(a), and early allowance of all pending claims on the merits.

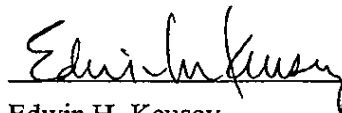
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that claims 17-18, 20, 22-27, 29-30, 32-33, 35-37, 39-40, 43-46, 48-49, 51-52, 54-56, 58-59, and 61-79 are patentable and nonobvious over the cited references. Consequently, the Applicants respectfully request reconsideration and withdrawal of the rejections and allowance of the application. Early and favorable consideration by the Examiner is respectfully urged.

A check for \$ 1,190 is attached herewith to cover the amount currently due for the RCE fee under 37 C.F.R. 1.17(e) and a two (2) month extension of time. Additional fees, or overpayments, may be charged, or credited, to applicant's representatives Deposit Account No. 50-1433.

Respectfully submitted,

By:



Edwin H. Keusey
Registration No. 34,361

Date: Oct. 6, 2003

Mailing Address:

KEUSEY, TUTUNJIAN & BITETTO, P.C.
14 Vanderventer Avenue, Suite 128
Port Washington, NY 11050
Tel.: (516) 883-3868
Fax: (516) 883-3869